

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2726 of 2023

Arising Out of PS. Case No.-471 Year-2022 Thana- BODHGAYA District- Gaya

Bijli Yadav S/o Bihari Yadav, R/o Village- Barma, P.S.-Bodh Gaya O.P.
Cherki, Dist.-Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Sidheshwar Ravidas, S/o Ramawatar Das, R/o Village- Jamdri, P.S.- Cherki,
Dist.- Gaya

... .. Respondents

Appearance :

For the Appellant/s : Mr. Praveen Kumar, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 14-07-2023 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

2. The appellant has preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act') for setting aside the impugned order dated 02.05.2023 passed by the learned Exclusive Special Judge, SC/ST Court, Gaya in connection with Bodh Gaya (Cherki) P.S. Case No.471 of 2022 registered for the offences punishable under Sections 147, 148, 149, 341, 323, 307, 302, 337, 338, 379, 504, 506 of the Indian Penal Code and Sections 3(1)(r)(s) & 3(2)(v) of the Act.

3. Present appeal is well within limitation as



prescribed under Section 14A(3) of the Act.

4. Notice was issued vide order dated 23.06.2023 by this Court regarding present proceedings in terms of Section 15-A(2) of the Act to the informant.

5. It is submitted by learned Special Public Prosecutor that information already given to informant in terms of aforesaid order but, he failed to join the present proceeding.

6. Accused/appellant is named in the FIR and is in custody since 19.02.2023.

7. Allegation against the appellant is to commit murder of the father of informant along with other co-accused persons/family members by means of *lathi*, rod, etc., where occurrence is arises out of long standing land dispute.

8. It is submitted by learned counsel for the appellant that maximum allegation as appears against this appellant as per narration of the FIR is of order giver, whereas specific allegation is attributed to other co-accused persons. It is submitted that similarly situated co-accused person, namely, Kishori Yadav @ Kishori Kumar Yadav has already granted bail by one of the learned co-ordinate Bench of this Court vide order dated 12.05.2023 passed in Cr. Appeal (SJ) No.696 of 2023. It is submitted that nothing surfaced during the course of



investigation, which may suggest that act of appellant can be said an atrocities within the meaning of Act as to cause present occurrence. While concluding argument, it is submitted that appellant is a man of clean antecedent and moreover investigation of this case has been completed for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence.

9. Learned counsel for the appellant submitted that if insult is not caused to complainant/informant on the basis of caste, no case is made out under the Act, as it was held in ***State of Madhya Pradesh vs. Parasram @ Purushottam*** as reported in ***[2015 (153)AIC 276]***.

10. Learned Special Public Prosecutor while opposing the prayer for bail of the appellant submitted that appellant was actively participated in occurrence.

11. In view of above-mentioned facts and circumstances, as allegation against the appellant is limited to be an order giver without attributing any overt act, coupled with the fact that charge-sheet has already submitted, where appellant is in custody since 19.02.2023, accordingly, the appellant, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties



of the like amount each to the satisfaction of the learned Exclusive Special Judge, SC/ST Court, Gaya in connection with Bodh Gaya (Cherki) P.S. Case No.471 of 2022, subject to the conditions as laid down under Section 437(3) of the CrPC.

12. Accordingly, the impugned order dated 02.05.2023 is set aside.

13. The appeal stands allowed.

(Chandra Shekhar Jha, J.)

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